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October 9, 2020

The Honorable Mary Pat Thyng  
United States District Court  
for the District of Delaware  
844 North King Street  
Wilmington, DE 19801

VIA ELECTRONIC FILING

Re: RetailMeNot, Inc. v. Honey Science LLC, No. 18-937-CFC-MPT (Consolidated)

Dear Judge Thyng:

Plaintiff RetailMeNot, Inc. respectfully submits this response to the Court's September 30, 2020 Order requesting an explanation as to why the Amended Complaint should remain under seal. D.I. 267.

RetailMeNot does not believe that the entire Amended Complaint should remain under seal. As shown in D.I. 251, and Exhibits Q, R, and S, RetailMeNot redacted only three categories of sensitive information in the Amended Complaint: (1) RetailMeNot's global sales and visitor information, (D.I. 251, Ex. 1 at ¶¶ 12, 85); (2) the cost of RetailMeNot's product development efforts (D.I. 251, Ex. 1 at ¶ 13); (3) and confidential communications and negotiations with Honey, D.I. 251 Ex. 1 at ¶¶ 90, 93, 94, 97, Ex. Q, R, S. Recognizing the public's interest in open access to judicial records, RetailMeNot now respectfully requests that only Exhibit Q remain under seal.

Federal Rule of Civil Procedure 26(c)(1) permits the entry of an order to prevent disclosure of discovery material where doing so would "protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense." Documents may remain under seal, even if they are part of the judicial record, to protect a party's interest in confidential commercial information, including information that cause serious risk of competitive injury and financial information. *Joint Stock Soc. v. UDV N. Am., Inc.*, 104 F. Supp. 2d 390 (D. Del. 2000) (financial information, strategic plans, marketing campaigns, consumer research could remain under seal); *United States v. Dentsply Int'l, Inc.*, 187 F.R.D. 152, 159 n. 6 (D. Del. 1999) (affording protection to corporate strategies, sale and pricing).

The information contained in Exhibit Q meets the standard for remaining under seal, as it is commercially sensitive and would cause RetailMeNot competitive injury if released. Exhibit

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Q is an internal email thread between RetailMeNot employees, which contains notes from a phone call with Honey's co-founder, as well as internal reactions regarding Honey's business model. This sensitive information, if released, would hurt RetailMeNot as its competitors could learn its specific internal business concerns and discussions regarding a specific competitor. If similar issues arise with a different competitor in the future, this would put RetailMeNot at a disadvantage.

For these reasons, RetailMeNot respectfully requests permission to file a new version of the Amended Complaint that only redacts these two categories of information from Exhibit Q.

Respectfully,

*/s/ Jeremy A. Tigan*

Jeremy A. Tigan (#5239)

JAT/rs

cc: Clerk of the Court (via CM/ECF)  
All Counsel of Record (via CM/ECF and electronic mail)